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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------|
| 10/583,209 | 10/18/2007 | Christopher Pearce | 539,6009.2 | 7650 |
| 22859 | 7590 | 03/16/2010 INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 200 SOUTH SIXTH STREET, SUITE 4000 MINNEAPOLIS, MN 55402 | | |
| | | | EXAMINER | |
| | | | DIETRICH, JOSEPH M | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3762 | | |
| | | MAIL DATE | DELIVERY MODE | |
| | | 03/16/2010 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/583,209 | PEARCE ET AL. |
| | Examiner | Art Unit |
| | Joseph M. Dietrich | 3762 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 18 October 2007.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-34 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-34 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 16 June 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/GS-68)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 5, 9, 10, 12 – 17, and 19 – 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unger (USPN 3,724,455) in view of Rockwell et al. (USPN 6,141,584).

Regarding **claims 1, 2, 14, 15, 23, and 26**, Unger discloses an apparatus and method, comprising a base (e.g. 34); operably coupled to a defibrillator (e.g. column 4, lines 52 – 54); two or more pods (e.g. 20, 22, 24) each connectable to a patient via patient lead cables to collect patient data (e.g. ELECTRODES in Fig. 1) the pods operable at a distance from the base (e.g. Fig. 1); and a wireless communications link

between the base and a selected one of the two or more pods to carry the patient data from the selected pod to the base (e.g. column 3, line 61 – column 4, line 3), the selection being based on which pod is associated with the base (e.g. column 4, lines 4 – 7; because each unit is assigned a different frequency to communicate with the base, it is understood that the base necessarily makes a selection of a specific frequency); but fails to disclose that the base contains the defibrillator. Rockwell teaches it is known to a base (e.g. 108) containing a defibrillator (e.g. 16); a pod (e.g. 104) connectable to a patient via patient lead cables to collect patient data (e.g. column 8, lines 8 – 11); wherein the association between the base and the pod occurs after establishing wired communication between the base and pod (e.g. Fig. 5 and column 3, lines 6 – 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator and base as taught by Unger with the base containing the defibrillator as taught by Rockwell, since such a modification would provide the predictable results allowing the pods to communicate directly with the device that contains the defibrillator and provide a more reliable wired connection between the pod and the base.

Regarding **claims 5 and 28**, Unger discloses the base determines and exchanges capabilities of the selected pod (e.g. column 4, lines 42 – 52).

Regarding **claims 9 and 21**, Unger discloses delivering a defibrillation shock based on the patient data received from the selected pod (e.g. column 4, lines 52 – 54).

Regarding **claim 10**, Unger discloses the association process between the base and the selected pod occurs wirelessly (e.g. column 3, line 61 – column 4, line 3). **It is**

noted that because the pod transmits information at a specific frequency to the receiver of the base, and the base uses said data to diagnose and/or treat a patient, that the pod is associated with the base.

Regarding **claims 12 and 22**, Unger discloses the defibrillator is automated (e.g. column 4, lines 52 – 54). Because the base 34 triggers the defibrillator upon detection of ventricular fibrillation, the defibrillator is automated.

Regarding **claim 13**, Unger discloses interpretive algorithms to analyze patient condition based on the patient data (e.g. column 4, lines 13 – 20). Because a computer is programmed to analyze the ECG waveform, it is understood that interpretive algorithms exist in the programmed computer. In the alternative, interpretive algorithms are well known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the programmed computer as taught by Unger with interpretive algorithms, since such a modification would provide the predictable results of accurately analyzing the patient data in order to effectively diagnose and/or treat a patient.

Regarding **claims 16 and 17**, Unger discloses the selection of the selected pod is based on the patient data received indicating a patient abnormality (e.g. column 4, lines 4 – 11). Unger teaches that an ECG signal is sent from a pod when a herald signal is detected. Thus, the pod only sends information, and consequently the base only selects that pod to receive the information, when the pod receives specific patient data that indicates a patient abnormality.

Regarding **claim 19**, Unger discloses receiving data from each of the pods (e.g.

column 4, lines 4 – 11).

Regarding **claim 20**, Unger discloses the base functions as a central communications hub for the pods (e.g. Fig. 1).

Regarding **claim 24**, Unger discloses the communications link includes data communication (e.g. column 3, line 61 - column 4, line 3).

Regarding **claims 25 and 27**, Unger discloses transfer of a unique pod identifier from the selected pod to the base (e.g. column 4, lines 4 – 11). Because each pod is assigned a different frequency, the frequency which it transmits the data is a unique pod identifier, since it indicates which pod is doing the transmission. Similarly, for the base to have a communication session with the selected pod, it must “identify” the selected pod using the assigned frequency.

4. Claims 3, 18, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Rockwell et al. as applied to claims 1, 14, and 30 above, and further in view of Saper et al. (USPN 3,865,101).

Regarding **claims 3 and 30**, Unger in view of Rockwell discloses the claimed invention except for association between the base and the selected pod occurs automatically upon powering up the base and the selected pod. Saper teaches it is known to form an association between the base and the pod automatically upon powering up the base and pod (e.g. column 1, lines 53 – 57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the association of the pod and base as taught by Unger in view of Rockwell with

the automatic association upon powering up the base and the pod as taught by Saper, since such a modification would provide the predictable results of allowing the pod and base to cooperate as soon as they are turned on.

Regarding **claim 18**, Unger in view of Rockwell discloses the claimed invention except for manual selection of the selected pod. Saper teaches it is known to manually select the pod (e.g. Fig. 2). By placing the pod into compartment 16, the user is manually selecting the pod to be associated with the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the selection as taught by Unger in view of Rockwell with the manual selection as taught by Saper, since such a modification would provide the predictable results of allowing a user to easily select which pod should be associated with the base.

5. Claims 4, 6, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Rockwell et al. as applied to claims 1 and 23 above, and further in view of Snell (USPN 6,978,181).

Regarding **claims 4, 6, and 32**, Unger in view of Rockwell discloses the claimed invention except for indicating the presence of another pod and indicating which pod is the selected pod. Snell teaches that it is known to use a telemetric network that uses an alarm when several devices are trying to make a wireless connection and indicating which is the selected device (e.g. column 6, lines 11 – 21 and column 7, lines 9 – 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wireless link as taught by Unger in view of Rockwell with the

telemetric network as taught by Snell, since such a modification would provide the predictable results of avoiding interference between the pods and allowing the user to easily identify the selected pod.

6. Claims 7, 8, 11, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Rockwell et al. as applied to claims 1 and 23 above, and further in view of Khair et al. (USPN 6,441,747).

Regarding **claims 7, 8, 11, 33, and 34**, Unger in view of Rockwell discloses the claimed invention except for alerting the patient or changing the mode when the wireless communication link is lost or degraded. Khair teaches it is known to have a wireless device enter a power saving sleep mode, alert the user, and restrict the data when the communication link is lost or degraded (e.g. column 14, line 60 – column 15, line 30). It would have been obvious to one having ordinary skill in the art to one having ordinary skill in the art at the time the invention was made to modify the invention as taught by Unger in view of Rockwell with alerting the patient and changing the mode when the wireless communication link is lost or degraded as taught by Khair, since such a modification would provide the predictable results of allowing a user to quickly re-establish a communication link between the base and the pod in case the link is lost.

7. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Rockwell et al. as applied to claim 23 above, and further in view of Covey et al. (US PGPUB 2004/0162586).

Regarding **claim 31**, Unger in view of Rockwell discloses the claimed invention except that the wireless link is encrypted. Covey teaches it is known to wirelessly send encrypted data from a device to a base (e.g. paragraph 32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wireless link as taught by Unger in view of Rockwell with the encrypted wireless link as taught by Covey, since such a modification would provide the predictable results of protecting the information sent and maintaining confidentiality.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Morgan et al. (USPN 5,593,426) teaches it is known to have several devices communicating with a base in a communication network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Dietrich whose telephone number is (571)270-1895. The examiner can normally be reached on M-F, 8:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. D./
Examiner, Art Unit 3762

/Carl H. Layno/
Supervisory Patent Examiner, Art
Unit 3766